

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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KIRSHA BROWN-YOUNGER,

Plaintiff,

vs.

PRECISION OPINION,

Defendant.

2:11-CV-00392-PMP-PAL

ORDER

Before the Court for consideration is Defendant's Motion to Dismiss, or in the Alternative for Summary Judgment (Doc. #80) filed August 13, 2011. Plaintiff filed a Motion to Deny Defendant's Motion and a Response (Docs. #85 & #86) on August 25, 2011. No reply has been filed. A review of the foregoing demonstrates clearly to the Court that Defendant's Motion to Dismiss must be granted.

Specifically, Plaintiff's Claim for Disability Discrimination fails because Plaintiff has not exhausted her administrative remedies and also because it is clear from the record before the Court that Plaintiff never told anyone at Defendant Precision Opinion that she suffered a disability or that she required a reasonable accommodation for an existing disability.

Plaintiff's Claim for Violation of the Fair Labor Standards Act for failure to pay overtime wages fails because it is clear from the record before the Court that Plaintiff was paid for all time worked for Defendant Precision Opinion.

1 It is thus clear to the Court that Plaintiff's Amended Complaint fails to state a
2 claim upon which relief can be granted and that dismissal is therefore warranted pursuant
3 to Rule 12(b)(6) of the Federal Rules of Civil Procedure. Additionally, Defendant is
4 entitled to summary judgment under Rule 56 of the Federal Rules of Civil Procedure
5 because Plaintiff has failed to demonstrate any genuine issue of material fact which
6 would support either of her claims.

7 **IT IS THEREFORE ORDERED** that Defendant's Motion to Dismiss or for
8 Summary Judgment (#80) is **GRANTED** and that Plaintiff's Amended Complaint (Doc.
9 #71) is hereby **DISMISSED** with prejudice. The Clerk of Court shall forthwith enter
10 judgment in favor of Defendant and against Plaintiff.

11 **IT IS FURTHER ORDERED** that Defendant's Motion for Order Shortening
12 Time (Doc. #84) is **DENIED** as moot.

13 **IT IS FURTHER ORDERED** that Plaintiff's Motion to Deny Defendant's
14 Motion to Dismiss or for Summary Judgment (Doc. #85) is **DENIED**.

15 DATED: September 6, 2011.

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19 PHILIP M. PRO
20 United States District Judge
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